

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
FRANCISCA TRINIDAD,

Plaintiff,

-against-

Docket No. 08cv2782 (SLT)

STEVEN GEIGER, an individual, MANUFACTURERS
AND TRADERS TRUST COMPANY, a New York
corporation, BARON AUTO MALL, INC. dba DRIVE
WORLD, a New York corporation, and VLADIMIR
ZANAN, an individual

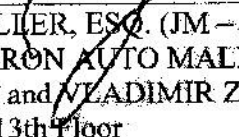
Defendants.
-----X

**NOTICE OF MOTION TO WITHDRAW AS ATTORNEYS FOR
BARON AUTO MALL, INC. d/b/a DRIVE WORLD AND VLADIMIR ZANAN**

PLEASE TAKE NOTICE, that upon the annexed motion (the "Motion"), Jeffrey Miller & Associates, P.C. ("JMAPC") will move before the Honorable Sandra L. Townes, United States District Court Judge, Eastern District of New York located at 225 Cadman Plaza, Brooklyn, New York 11201, as soon as counsel may be heard, for the issuance of an order pursuant to Local Civil Rule 1.4 authorizing the withdrawal of JMAPC as the attorneys for BARON AUTO MALL, INC. d/b/a DRIVE WORLD and VLADIMIR ZANAN in the above captioned case.

Dated: New York, New York
November 23, 2009

Respectfully submitted,
JEFFREY MILLER & ASSOCIATES, P.C.



JEFFREY R. MILLER, ESQ. (JM - 0788)
Attorneys for BARON AUTO MALL, INC. d/b/a
DRIVE WORLD and VLADIMIR ZANAN
116 John Street, 13th Floor
New York, NY 10038
(212) 227-4200

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
FRANCISCA TRINIDAD,

Plaintiff,

-against-

Docket No. 08cv2782 (SLT)

STEVEN GEIGER, an individual, MANUFACTURERS
AND TRADERS TRUST COMPANY, a New York
corporation, BARON AUTO MALL, INC. dba DRIVE
WORLD, a New York corporation, and VLADIMIR
ZANAN, an individual

Defendants.
-----X

**MOTION OF JEFFREY MILLER & ASSOCIATES, P.C. FOR AN ORDER
AUTHORIZING IT TO WITHDRAW AS ATTORNEYS FOR DEFENDANTS
BARON AUTO MALL, INC. d/b/a DRIVE WORLD AND VLADIMIR ZANAN**

Jeffrey Miller & Associates, P.C. ("JMAPC") hereby moves the Court for an order, substantially in the form attached as *Exhibit A*, pursuant to Local Civil Rule 1.4, authorizing JMAPC to withdraw as the attorneys for Baron Auto Mall, Inc. d/b/a Drive World and Vladimir Zanan (collectively, the "Defendants") in the above-captioned case. In support of this Motion, JMAPC respectfully alleges:

PROCEDURAL POSTURE

The Complaint in the above referenced case was filed on July 11, 2008. JMAPC submitted a letter requesting a Pre-Motion Conference on August 29, 2008. On December 5, 2008, an Answer and Cross-claim were filed on behalf of the co-defendant MANUFACTURERS AND TRADERS TRUST COMPANY. On December 24, 2008, the Defendants filed an Answer and Cross-claim. A pre-motion conference was held on August 20, 2009, wherein the Court granted the Defendants permission to interpose a motion to dismiss, by November 20, 2009. At the present, there is nothing further pending on the judicial calendar regarding this case.

BACKGROUND

On August 11, 2008, JMAPC appeared in the above captioned adversary proceeding as the attorneys for the Defendants. During JMAPC's representation, several correspondences have been sent to the Defendants which were returned unanswered, bearing a postmark "return to sender." Additionally, JMAPC has received little or no instruction from the Defendants regarding this matter, and have outstanding invoices from past legal representation by JMAPC. Such lack of communication has rendered it unreasonably difficult for JMAPC to carry out its employment effectively. Accordingly, JMAPC respectfully moves this court to allow it to withdraw as counsel of record to the Defendants in the above referenced proceeding.

BASIS FOR RELIEF REQUESTED

JMAPC respectfully submits that there is sufficient cause for this Court to grant the relief requested and allow JMAPC to withdraw as counsel to the Defendants. JMAPC should be permitted to withdraw because (i) the withdrawal will not have a material adverse effect on the Defendants, (ii) JMAPC believes, that as a matter of professional judgment, it cannot continue to effectively represent the Defendants. Accordingly, under the circumstances of this case, there is sufficient cause to grant the relief requested herein and allow JMAPC to withdraw as counsel to the Defendants.

NO PRIOR REQUEST


No prior request for the relief requested herein has been made to this or any other Court.

WHEREFORE, for the reasons set forth herein, it is respectfully requested that the Court enter an order (i) authorizing JMAPC to withdraw as attorneys for Baron Auto Mall, Inc. d/b/a

Drive World and Vladimir Zanan, substantially in the form attached hereto as *Exhibit A*, and (ii) granting JMPC such other and further relief as is just.

Dated: New York, New York
November 23, 2009

Respectfully submitted,
JEFFREY MILLER & ASSOCIATES, P.C.



JEFFREY R. MILLER, ESQ. (JM 0788)
Attorneys for BARON AUTO MALL, INC. d/b/a
DRIVE WORLD and VLADIMIR ZANAN
116 John Street, 13th Floor
New York, NY 10038
(212) 227-4200

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
FRANCISCA TRINIDAD,

Plaintiff,

-against-

Docket No. 08cv2782 (SLT)

STEVEN GEIGER, an individual, MANUFACTURERS
AND TRADERS TRUST COMPANY, a New York
corporation, BARON AUTO MALL, INC. dba DRIVE
WORLD, a New York corporation, and VLADIMIR
ZANAN, an individual

Defendants.
-----X

**DECLARATION OF JEFFREY MILLER IN SUPPORT OF
MOTION TO WITHDRAW AS ATTORNEY FOR
BARON AUTO MALL, INC. d/b/a DRIVE WORLD AND VLADIMIR ZANAN**

I, JEFFREY MILLER, ESQ., declare that the following is true and correct under penalty of perjury:

1. I am an attorney admitted to practice before this Court and am a member of the law firm of Jeffrey Miller & Associates, P.C. ("JMAPC"), attorneys for BARON AUTO MALL, INC. DRIVE WORLD and VLADIMIR ZANAN ("DEFENDANTS"). I make this affidavit in support of the Motion of JMAPC to withdraw as the attorneys for the Defendants in the above captioned case.
2. The New York Rules of Professional Conduct, Rule 1.16, provides, in pertinent part:
 - c) Except as stated in paragraph (d), a lawyer may withdraw from representing a client when:
 - i) Withdrawal can be accomplished without material adverse effect on the interests of the client;
...
 - v) The client deliberately disregards an agreement or obligation to the lawyer as to expenses or fees;
...

vii) The client fails to cooperate in the representation or otherwise renders the representation unreasonably difficult for the lawyer to carry out employment effectively;

...

xii) The lawyer believes in good faith, in a matter pending before a tribunal, that the tribunal will find the existence of other good cause for withdrawal; or

- d) If permission for withdrawal from employment is required by the rules of a tribunal, a lawyer shall not withdraw from employment in a matter before that tribunal without its permission. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.
- e) Even when withdrawal is otherwise permitted or required, upon termination of representation, a lawyer shall take steps, to the extent reasonably practicable, to avoid foreseeable prejudice to the rights of the client, including giving reasonable notice to the client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled, promptly refunding any part of a fee paid in advance that has not been earned and complying with applicable laws and rules.

3. During the representation, the Defendants have failed to respond to numerous attempts by JMAPC to obtain the client's directives concerning the prosecution of this litigation. (Copies of correspondence to the Defendants are attached hereto as Exhibit B). In addition, several correspondences have been sent to the Defendants which were returned unanswered, bearing a postmark "return to sender." (Copies of "returned" correspondence are attached hereto as Exhibit C). The Defendants' failure in this regard has made it impossible for JMAPC to continue to provide legal representation to the Defendants.
4. Due to the nature of the attorney/client privilege it is respectfully requested that any proffers of proof, if requested by the court, be done so *in camera*.
5. Moreover, the Defendants continue to maintain an outstanding balance for work that was completed by JMAPC in other litigations.
6. There is "satisfactory reason" for the relief requested in the Motion to Withdraw as required by Local Civil Rule 1.4 because of the inability to effectively communicate with the clients. See New York Rules of Professional Conduct, Rule 1.16(c)(vii).
7. JMAPC has taken reasonably practicable steps to avoid foreseeable prejudice to the rights of the

8. No prior application has been made.

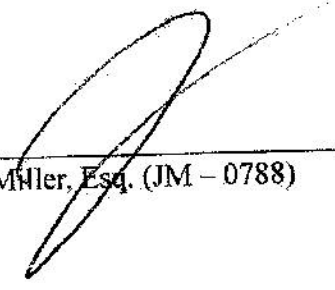
9. I respectfully request that the Court enter an order granting the relief requested in the Motion to

Withdraw, and such other relief as is proper.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York

November 23, 2009



Jeffrey R. Miller, Esq. (JM - 0788)

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
FRANCISCA TRINIDAD,

Plaintiff,

-against-

STEVEN GEIGER, an individual, MANUFACTURERS
AND TRADERS TRUST COMPANY, a New York
corporation, BARON AUTO MALL, INC. dba DRIVE
WORLD, a New York corporation, and VLADIMIR
ZANAN, an individual

Defendants.
-----X

Docket No. 08cv2782 (SLT)
[PROPOSED] ORDER

**[PROPOSED] ORDER AUTHORIZING JEFFREY MILLER & ASSOCIATES, P.C. TO
WITHDRAW AS ATTORNEYS FOR BARON AUTO MALL, INC. d/b/a DRIVE
WORLD AND VLADIMIR ZANAN**

Upon the Motion of Jeffrey Miller & Associates, P.C. for an Order Authorizing It To Withdraw
As Attorneys for Baron Auto Mall, Inc. d/b/a Drive World and Vladimir Zanan, dated November 23,
2009; and upon the hearing held before the Court, and any objections to the relief requested in the
Motion having been considered and overruled; and due and sufficient notice of the relief requested in
the Motion having been given, and no further notice being required, and due deliberation having been
had, and just cause appearing therefore, it is hereby

ORDERED that the Motion is granted in all respects; and it is further

ORDERED that Jeffrey Miller & Associates, P.C.'s appearance on behalf of Baron Auto Mall,
Inc. d/b/a Drive World, and Vladimir Zanan the Matter, shall be, and hereby is, withdrawn.

Dated: _____, 2009

HON. SANDRA L. TOWNES,
UNITED STATES DISTRICT JUDGE

EXHIBIT B

JEFFREY MILLER & ASSOCIATES, P.C.

ATTORNEYS AT LAW

116 John Street, 13th Floor ▪ New York, NY 10038
Tel 212.227.4200 ▪ Fax 212.504.8369

September 17, 2009

Vladimir Zanan
1922 Utica Avenue
Brooklyn, NY 11234

Re: *Francisca Trinidad v. Steven Geiger, Manufacturers and Traders Trust
Company, Baron Auto Mall, Inc., d/b/a Drive World, and Vladimir Zanan
Index No. 08-CV-2782*

Dear Mr. Zanan:

Please be advised that the court has granted our request to interpose a Motion to Dismiss the complaint.

As you are aware, in order to further our defense of your interests, your complete cooperation with our offices is necessary. Whereas we have not had any contact from you for several months, and several of our invoices to you remain unpaid, please confirm that you wish our firm to continue representing your interests in the above-referenced matter.

Thank you for your time and should you have any questions or concerns, please do not hesitate to contact the undersigned.

Very truly yours,
Jeffrey Miller & Associates, P.C.

BY:

Jeffrey R. Miller, Esq.

JEFFREY MILLER & ASSOCIATES, P.C.

ATTORNEYS AT LAW

116 John Street, 13th Floor • New York, NY 10038
Tel 212.227.4200 • Fax 212.504.8369

October 20, 2009

SECOND NOTICE

Vladimir Zanan
1922 Utica Avenue
Brooklyn, NY 11234

*Re: Francisca Trinidad v. Steven Geiger, Manufacturers and Traders Trust
Company, Baron Auto Mall, Inc., d/b/a Drive World, and Vladimir Zanan
Index No. 08-CV-2782*

Dear Mr. Zanan:


Please be advised that the court has granted our request to interpose a Motion to Dismiss the complaint.

As you are aware, in order to further our defense of your interests, your complete cooperation with our offices is necessary. Whereas we have not had any contact from you for several months, and several of our invoices to you remain unpaid, please confirm that you wish our firm to continue representing your interests in the above-referenced matter.

Thank you for your time and should you have any questions or concerns, please do not hesitate to contact the undersigned.

Very truly yours,
Jeffrey Miller & Associates, P.C.

BY:


Jeffrey R. Miller, Esq.

JEFFREY MILLER & ASSOCIATES, P.C.

ATTORNEYS AT LAW

116 John Street, 13th Floor • New York, NY 10038
Tel. 212.227.4200 • Fax 212.504.8369

November 2, 2009

THIRD NOTICE

Vladimir Zanan
1922 Utica Avenue
Brooklyn, NY 11234

*Re: Francisca Trinidad v. Steven Geiger, Manufacturers and Traders Trust
Company, Baron Auto Mall, Inc., d/b/a Drive World, and Vladimir Zanan
Index No. 08-CV-2782*

Dear Mr. Zanan:

Please be advised that the court has granted our request to interpose a Motion to Dismiss the complaint.

As you are aware, in order to further our defense of your interests, your complete cooperation with our offices is necessary. Whereas we have not had any contact from you for several months, and several of our invoices to you remain unpaid, please confirm that you wish our firm to continue representing your interests in the above-referenced matter.

Thank you for your time and should you have any questions or concerns, please do not hesitate to contact the undersigned.

Very truly yours,
Jeffrey Miller & Associates, P.C.

BY:

Jeffrey R. Miller, Esq.

JEFFREY MILLER & ASSOCIATES, P.C.

ATTORNEYS AT LAW

116 John Street, 13th Floor • New York, NY 10038
Tel 212.227.4200 • Fax 212.504.8369

September 17, 2009

Baron Auto Mall, Inc. d/b/a Driveworld
1922 Utica Avenue
Brooklyn, NY 11234

*Re: Francisca Trinidad v. Steven Geiger, Manufacturers and Traders Trust
Company, Baron Auto Mall, Inc., d/b/a Drive World, and Vladimir Zanan
Index No. 08-CV-2782*

Dear Sirs:

Please be advised that the court has granted our request to interpose a Motion to Dismiss the complaint.

As you are aware, in order to further our defense of your interests, your complete cooperation with our offices is necessary. Whereas we have not had any contact from you for several months, and several of our invoices to Driveworld remain unpaid, please confirm that you wish our firm to continue representing your interests in the above-referenced matter.

Thank you for your time and should you have any questions or concerns, please do not hesitate to contact the undersigned.

Very truly yours,
Jeffrey Miller & Associates, P.C.

BY:


Jeffrey R. Miller, Esq.

JEFFREY MILLER & ASSOCIATES, P.C.

ATTORNEYS AT LAW

116 John Street, 13th Floor ▪ New York, NY 10038
Tel 212.227.4200 ▪ Fax 212.504.8369

October 20, 2009

SECOND NOTICE

Baron Auto Mall, Inc. d/b/a Driveworld
1922 Utica Avenue
Brooklyn, NY 11234

*Re: Francisca Trinidad v. Steven Geiger, Manufacturers and Traders Trust
Company, Baron Auto Mall, Inc., d/b/a Drive World, and Vladimir Zanan
Index No. 08-CV-2782*

Dear Sirs:

Please be advised that the court has granted our request to interpose a Motion to Dismiss the complaint.

As you are aware, in order to further our defense of your interests, your complete cooperation with our offices is necessary. Whereas we have not had any contact from you for several months, and several of our invoices to Driveworld remain unpaid, please confirm that you wish our firm to continue representing your interests in the above-referenced matter.

Thank you for your time and should you have any questions or concerns, please do not hesitate to contact the undersigned.

Very truly yours,
Jeffrey Miller & Associates, P.C.

BY:

Jeffrey R. Miller, Esq.

JEFFREY MILLER & ASSOCIATES, P.C.

ATTORNEYS AT LAW

116 John Street, 13th Floor ■ New York, NY 10038
Tel 212.227.4200 ■ Fax 212.504.8369

November 2, 2009

THIRD NOTICE

Baron Auto Mall, Inc. d/b/a Driveworld
1922 Utica Avenue
Brooklyn, NY 11234

*Re: Francisca Trinidad v. Steven Geiger, Manufacturers and Traders Trust
Company, Baron Auto Mall, Inc., d/b/a Drive World, and Vladimir Zanan
Index No. 08-CV-2782*

Dear Sirs:

Please be advised that the court has granted our request to interpose a Motion to Dismiss the complaint.

As you are aware, in order to further our defense of your interests, your complete cooperation with our offices is necessary. Whereas we have not had any contact from you for several months, and several of our invoices to Driveworld remain unpaid, please confirm that you wish our firm to continue representing your interests in the above-referenced matter.

Thank you for your time and should you have any questions or concerns, please do not hesitate to contact the undersigned.

Very truly yours,
Jeffrey Miller & Associates, P.C.

BY:

Jeffrey E. Miller, Esq.

EXHIBIT C



JEFFREY MILLER & ASSOCIATES, P.C.
ATTORNEYS AT LAW
116 John Street - 13th Floor - New York, NY 10038

APR 11 2009

Vladimir Zanan
1922 Ulica Avenue
Brooklyn, NY 11234

NEW YORK NY 100
APR 11 2009 PM 3.1



RETURN TO SENDER
UNDELIVERABLE

11234-0000000000

11234-0000000000



JEFFREY MILLER & ASSOCIATES, P.C.
ATTORNEYS AT LAW
116 John Street - 13th Floor - New York, NY 10038

[Handwritten signature]

Vladimir Zanan
1922 Utica Avenue
Brooklyn, NY 11234

MNF

11234-11234-11234

11234-11234-11234

NO: 10038330009 4345-20251-02-02

RETURN TO SENDER
NOT KNOWN
UNABLE TO FORWARD

NIXIE 112 SE 1 00 11/13/09

 JEFFREY MILLER & ASSOCIATES, P.C.
ATTORNEYS AT LAW
116 John Street - 13th Floor New York, NY 10038

VACANT

Barton Auto Mail, Inc. d/b/a Driveworld
1922 Utica Avenue
Brooklyn, NY 11234

11234 100380000

11234 100380000

RETURN TO SENDER
NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES



AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

I, ALEJANDRA PEREZ, being duly sworn, deposes and says:

That I am not a party to this action, that I am over 18 years of age, and that I maintain an office in the County of New York.

That on the 23rd day of November 2009, I served a

NOTICE OF MOTION, MOTION TO WITHDRAW AND ATTORNEY DECLARATION

dated November 23, 2009 upon:

Richard Lamborn
Attorneys for Plaintiff
333 East 149th Street
Bronx, NY 10451

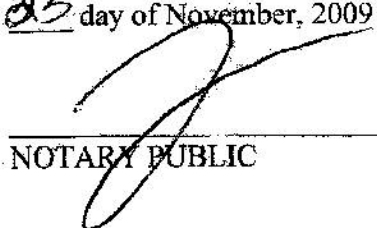
Lance S. Grossman
Attorneys for Defendants
Manufacturers & Traders Trust Company
233 Broadway – Suite 2220
New York, New York 10279

At the address designated by said attorneys for that purpose, by depositing a true copy of same enclosed in a post-paid, properly addressed wrapper, in the official depository under the exclusive care and custody of the United States by REGULAR MAIL.


ALEJANDRA PEREZ

Sworn before me this

23 day of November, 2009


NOTARY PUBLIC

Jeffrey R. Miller
NOTARY PUBLIC, State of New York
No. 02MI5066524
Qualified in Kings County
Commission Expires 09/30/10

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Index No: 08CV2782

FRANCISCA TRINIDAD,

Plaintiff,

-against-

**STEVEN GEIGER, an individual, MANUFACTURERS
AND TRADERS TRUST COMPANY, A New York
Corporation, BARON AUTO MEALL, INC. d/b/a
DRIVE WORLD, a New York Corporation, and
VLADIMIR ZANAN, an individual**

Defendants.

NOTICE OF MOTION, MOTION TO WITHDRAW AND ATTORNEY DECLARATION

**JEFFREY MILLER, P.C.
Attorneys for Defendants
BARON AUTO MALL d/b/a DRIVE WORLD and VLADIMIR ZANAN
Office and Post Office Address, Telephone
116 JOHN STREET- 13TH FLOOR
NEW YORK, NEW YORK 10038
TEL. NO. (212) 227-4200
FAX NO. (212) 504-8369**

To

Service of a copy of the within
Is hereby admitted,

Dated : _____ 20__

Attorney(s) for

PLEASE TAKE NOTICE:

NOTICE OF ENTRY

that the within is a (certified) true copy of a
duly entered in the office of the clerk of the within named court on

NOTICE OF SETTLEMENT

that an order
will be presented for settlement to the HON.
within named Court, at
on _____ 20__ at _____ M.

of which the within is a true copy
One of the judges of the

Dated,

Yours, etc.
JEFFREY MILLER & ASSOCIATES, P.C.